



# THE DIVORCING PARENTS GUIDE

Many parents contemplating divorce are at a loss when it comes to their rights regarding the children. Below are some of the most commonly asked questions:

## ***How do we decide where the children live?***

Parents are encouraged to reach an amicable agreement either through negotiation via solicitors or through mediation. Where it is not possible to reach an agreement, either parent can apply to the Court for a Residence Order. The Court will consider the welfare of the children to be the most important factor. The children's wishes and feelings will be considered although the weight attached, will depend upon their ages. Research has shown that parents are much happier with a negotiated agreement than one imposed upon them by a Court.



## ***My ex-partner is stopping me seeing the children. What can I do?***

Courts consider it the right of every child to have a meaningful relationship with each parent. When agreement cannot be reached by negotiation through solicitors or mediation, it may be necessary to apply to the Courts for a Contact Order. A CAFCASS Officer appointed by the Court to investigate the difficulties may ascertain the wishes and feelings of the children.



## ***What is Parental Responsibility and do I have it?***

Parental Responsibility is defined in the Children Act 1989 as being “*all the rights, duties, powers, responsibility and authority which by law a parent of a child has in relation to the child and property*”. Mothers and married fathers automatically acquire Parental Responsibility. Unmarried fathers have Parental Responsibility for children born after 1 December 2003 providing that their name is on the birth certificate. Otherwise, if the parents are in agreement, a Family solicitor can draw up an official agreement. In the absence of an agreement, the unmarried father may make an application to court for a Parental Responsibility.



## ***Will my ex-partner have to pay maintenance for the children?***

If maintenance cannot be agreed, it will be necessary to make an application to the Child Support Agency. In general, an absent parent will be required to pay 15% of his net income for one child, 20% for two and 25% for three or more. This may be reduced depending on other factors e.g. the number of nights the children stay with the non-resident parent, the existence of stepchildren etc. The calculation used can be accessed on [www.csa.gov.uk](http://www.csa.gov.uk). Alternatively, an experienced family solicitor will be able to advise you as to how much you can expect.

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